

ENFORCEMENT RECOMMENDATION & PLAN (ERP)

Region: NRO

Date: 2/12/2021

Facility/Source: Perdomo National Wrecking

EA No.: NR19-1207

Location: End of Potomac Creek Drive, Fredericksburg, Virginia 22405 (Stafford County Property ID 38 22A; Alternate ID 23742)

Resp. Party/Fac. Owner: Mr. Orlando M. Perdomo Jr. (Perdomo National Wrecking Company, LLC and Perdomo Realty LLC are not currently active with the Virginia SCC)

Permit No. (or Registration No.): Unpermitted

IR No.: 291295 (2019-N-3982)

Media Program: Solid Waste

HPV/SNC? ☐

State Waters Affected (if applicable): N/A

Alleged Violations:

No.	Citation(s)	Short Description
1.	Title 10.1, Chapter 14 of Virginia Waste Management Act, §10.1-1418.1 and 9 VAC 20-81-40	Failure to dispose of waste in a legal manner.

Case Summary:

The subject property located at the end of Potomac Creek Drive in Fredericksburg, Virginia (Stafford County Property ID 38 22A; Alternate ID 23742), appears to be used for the storage and transfer of solid waste related to wrecking/demolition business operations (Site). According to Stafford County's property tax website, the property owner is Perdomo Realty LLC; however, this LLC was cancelled by the Virginia SCC on September 30, 2019, for failure to pay registration fees.

Mr. Orlando M. Perdomo Jr. (Mr. Perdomo) has been identified as the individual in responsible charge for operations at the Site based on a commonality of ownership to various historical "Perdomo" LLC's that are now inactive with the SCC, and ties to the following business address: 7664 Fullerton Road, A1, Springfield, Virginia, 22153. To date, DEQ's correspondence has been via email through Mr. Anwar Minni, an agent of Mr. Perdomo who has ties to several of the "Perdomo" entities that are currently inactive with the SCC.

On June 5, 2019, while conducting an investigation related to an oil spill cleanup, DEQ staff observed large waste piles and multiple roll-off containers labeled "Perdomo." DEQ made entry onto the property at the request of Stafford County in response to a reported fuel spill and fire. Specific items in the waste piles observed by DEQ included bricks, cinder blocks, rebar, framing lumber, metal studs, plastic, bagged trash, office partitions, and a used tire. The observed waste was consistent with the definition of construction waste or also designated as construction demolition debris (CDD). DEQ requested removal of the waste, and on June 24, 2019, DEQ issued a Warning Letter for the improper disposal of solid waste, sent via email to Mr. Minni.

The Warning Letter was addressed to Perdomo Realty, LLC, an entity that was active with the SCC at the time of issuance.

DEQ did not receive a reply to the Warning Letter, and on October 17, 2019, DEQ staff performed additional investigations at the Site. While parked offsite on Potomac Creek Drive, DEQ observed trucks hauling waste consistent with CDD onto the Site. Based on DEQ's observations, solid waste at the Site was not being disposed of in a legal manner, and DEQ issued a Notice of Violation (NOV) on November 1, 2019, sent via email to Mr. Minni. The NOV was addressed to Perdomo National Wrecking Company, LLC, an entity that was active with the SCC at the time of issuance.

DEQ did not receive a response to the NOV, and a notice letter was sent to Mr. Minni via email on December 19, 2019, again requesting a response to the NOV. On December 30, 2019, DEQ received an email response to the NOV from Mr. Minni. The cited violation were not disputed in the email reply, and it was stated that the waste materials observed by DEQ at the Site would be cleaned up and removed from the property.

DEQ did not receive any follow-up documentation to confirm that any corrective actions had been performed, and in September 2020, DEQ staff performed an offsite visual inspection of the Site. During the visual inspection, DEQ staff observed the Site conditions to be very similar to the conditions observed in 2019, with no apparent corrective actions performed as requested by DEQ and waste piles still present. On October 1, 2020, DEQ enforcement emailed Mr. Minni and stated that additional enforcement, inclusive of a civil penalty, would occur unless activities at the Site were demonstrated to be compliance with the Virginia Waste Management Act and the applicable regulations by December 1, 2020. DEQ did not receive a response to this request.

Civil Charge/Penalty Discussion:

A civil charge of \$19,500, including \$6,000 is recommended and is discussed in further detail on the civil charge worksheet.

Preferred Action:

The recommended preferred action is to issue a Consent Order that will require Mr. Perdomo to manage the solid waste at the subject property in a legal manner in compliance with the Virginia Waste Management Act and the applicable regulations, and to pay a civil penalty in settlement of the violations.

Recommended by: Jim Datko, Regional Enforcement Specialist Senior **Date:** 2/12/2021

Concurrence (initial and date):

Enforcement Manager:




Date: 18March2021

DE: T.S.

Date: 3/4/2021

Approved:



3/19/21

Date: _____

Regional Director

Comments: I have discussed this case with Richard Doucette and Alan Lacy, and they agree that this recommendation is reasonable and consistent.

Cc: Compliance/Permits Manager
DE Enforcement Manager

WASTE CIVIL CHARGE/CIVIL PENALTY WORKSHEET

[Va. Code § 10.1-1455](#)

Permittee/Responsible Party: Mr. Orlando M. Perdomo Jr. Perdomo National Wrecking Company LLC		Permit/ID No.: Unpermitted IR#291295 (2019-N-3982)		NOV Date: November 1, 2029		
		Potential For Harm		Amount		
					Data	Serious
1. Extent of Deviation from Requirement						
a. Major	Y	N	\$ 26,000	\$ 9,000 x 1	\$ 2,600	\$9,000
b. Moderate	Y	N	\$ 13,000	\$ 6,000	\$ 1,300	
c. Minor	Y	N	\$ 8,000	\$ 3,500	\$ 300	
d. Subtotal						\$9,000
2. Multi-Day Component (<i>n = number of days of continuing, discrete violations</i>)						
a. Does the multi-day component apply? If no, go to #3.	Y	N				
b. Major	Y	N	\$1,300 (x) n =	\$700 (x) n =	\$200 (x) n =	
c. Moderate	Y	N	\$1,000 (x) n =	\$400 (x) n =	\$150 (x) n =	
d. Minor	Y	N	\$700 (x) n =	\$200 (x) n =	\$100 (x) n =	
e. Remedy Consent Order	Y	N	\$250 (x) n =	\$100 (x) n =	\$50 (x) n =	
f. Multi-day subtotal						
3. Degree of Culpability						
Culpability subtotal (<i>apply to violation(s)' Amount or to the sum of 1 and 2.</i>)	Low = (x) 0		Moderate = (x) 0.25	Serious = (\$9,000) 0.5	High = (x) 1.0	\$4,500
4. Compliance History						
Order or decree <u>in another media program</u> within 36 mo. before initial NOV	Y	N	If yes, add lesser of 0.05 (x) sum of 1 and 2, or \$5,000			
Order or decree <u>in same media program</u> within 36 mo. before initial NOV	Y	N	If yes, add 0.5 (x) sum of 1 and 2 (for 1 order in 36 mo.)			
RCO Compliance History	Y	N	If yes, add 0.15 (x) sum of 1 and 2			
5. Economic Benefit of Noncompliance						\$6,000
6. Ability to Pay (<i>based on information supplied by the owner/operator</i>)						()
Total Civil Charge/Civil Penalty (<i>may not exceed \$32,500 per day per violation</i>)						\$19,500

Comments:

Line 1. – Deviation(s) from Requirement(s): Major-Moderate (9 VAC 20-81-140.B.1.)

Assessment of one violation for the failure to dispose of solid waste in a legal manner. A major deviation from the regulatory requirement is assessed, as the Facility appeared to be operating as an unpermitted solid waste management Facility (storage and/or transfer) during DEQ's Site visits. The assessment of a moderate potential for harm is justified because the construction demolition debris (CDD) observed at the Site does not pose an extreme risk to human health and the environment when improperly managed, in comparison to other waste potential waste wastes.

Degree of Culpability:

A serious culpability assessment is appropriate because of the repeat nature of the violations, and the overall degree of control that Mr. Perdomo and his representatives had over the events constituting the violations. DEQ notified Mr. Perdomo, through his agent Mr. Anwar Minni, of the issues via a Warning Letter in June of 2019 prior to the NOV, and DEQ enforcement attempted to resolve the noncompliance with Mr. Minni for over a year prior to developing this proposed penalty-Consent Order resolution.

Economic Benefit of Noncompliance:

Economic benefit was received by Mr. Perdomo in this case for avoiding the costs associated with obtaining and complying with a DEQ solid waste permit or permit by rule Material Recovery Facility. This included avoidance of developing and submitting a permit application, payment of an application fee, payment of annual fees, and approximately 2-years of permit-related monitoring and reporting. Mr. Perdomo also received additional economic benefit for delaying the proper disposal of the CDD waste at the Site for approximately 2 years, as DEQ's original request to cleanup the Site was issued in June 2019. In collaboration with NRO waste compliance staff, the economic benefit received by Mr. Perdomo for avoiding these items is estimated to be \$6,000 (\$5,000 of avoided permitting costs and \$1,000 for delaying the waste disposal process).

Total Civil Charge: \$19,500